

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

**N.K.C. and K.D.C.,
Individually and as Natural Guardians of
ALC, an infant,**

Plaintiffs,

v.

CIVIL ACTION NO. 3:13-CV-5881

**ST. MARY'S MEDICAL CENTER, INC., a
West Virginia Corporation, UNITED HEALTH
PROFESSIONALS, INC., a West Virginia
Corporation, and STEVEN S. BRUMFIELD, M.D.,
an individual,**

Defendants.

ORDER APPROVING SETTLEMENT

This day, came Petitioners and Plaintiffs, N.K.C. and K.D.C., Individually and as Natural Guardians of A.L.C., represented by counsel, Robert Berthold, Jr. and Berthold Law Firm, PLLC and came also the defendants, St. Mary's Medical Center, Inc., United Health Professionals, Inc., and Steven Brumfield, M.D., by their respective counsel, for a hearing pursuant to the Petition and Application filed herein, and asking permission to settle the medical negligence claims of Petitioners against the defendants, St. Mary's Medical Center, Inc., United Health Professionals, Inc., and Steven S. Brumfield, M.D., and for distribution of the confidential settlement proceeds as outlined in detail at the hearing. Thereupon, Petitioners represented to the Court that they have agreed to a final settlement with the defendants for confidential amounts which were disclosed at the hearing. In

consideration of these total payments paid by defendants, Petitioners have agreed to release and discharge the defendants, St. Mary's Medical Center, Inc., United Health Professionals, Inc. and Steven Brumfield, M.D. from any and all liability whatsoever arising as a result of the alleged negligence of the defendants as alleged by the Petitioners. Petitioners further requested that the Court order distribution of the net settlement proceeds as set forth at the hearing.

Based upon the Petition and Application and Answer of Guardian Ad Litem filed herein, the representations of counsel, and after a review of the entire record before it, the Court hereby makes the following findings of fact and conclusions of law:

1. That Petitioners, N.K.C and K.D.C., are the natural guardians and parents of A.L.C.

2. That Petitioners' case arises out of alleged negligent medical care and treatment provided to K.D.C. and A.L.C. at or around the time of A.L.C.'s birth. The petitioners contend that the defendants negligently failed to appropriately manage the labor and delivery of A.L.C.

3. Petitioners agreed upon a settlement whereby the Petitioners in consideration of the confidential amounts paid by the defendants as set forth in detail at the hearing, have agreed to release and discharge defendants, St. Mary's Medical Center, Inc., United Health Professionals, and Steven Brumfield, M.D., and have agreed to execute a Release of All Claims for the defendants, St. Mary's Medical Center, Inc., United Health Professionals, and Steven Brumfield, M.D.

4. The proposed settlement and distribution thereof is proper and just and is in the best interests of all parties involved and should be approved by the Court.

5. The Court having made the foregoing findings, and having considered the matters and allegations set forth in the Petition and Application, and having reviewed the entire record before it in this case, is of the opinion that it is just and proper that Petitioners, N.K.C. and K.D.C., Individually and as Natural Guardians of A.L.C., be directed and authorized to make settlement as set forth at the hearing on the Petitioners' Petition and Application.

It is accordingly **ORDERED** that Petitioners, N.K.C. and K.D.C., Individually and as Natural Guardians of A.L.C., are hereby authorized and directed in their representative capacity to release and discharge defendants, St. Mary's Medical Center, Inc., United Health Professionals, Inc., and Steven Brumfield, M.D., and execute and deliver the proper settlement documents forever releasing and acquitting the defendants from any and all liability whatsoever arising as a result of the alleged negligent care and treatment of K.D.C. and A.L.C. during the labor and delivery of A.L.C.

It is additionally **ORDERED** that Robert Berthold, Jr. and the Berthold Law Firm, PLLC have provided able and valuable legal services to the Petitioners and Plaintiffs herein, and shall be paid their agreed upon attorney's fees out of the proceeds of this settlement with defendants as set forth during the hearing. Further it is **ORDERED** that Robert Berthold, Jr. and the Berthold Law Firm shall be paid their reasonable expenses out of this total settlement with defendants, as set forth

during the hearing on the Petition.

Upon approval by the court of the settlement referenced herein, Petitioners are authorized and ordered to satisfy from the settlement proceeds any valid liens asserted by Medicaid, Medicare, any health insurer or health care provider, any state or federal governmental agency or entity, or any other entity asserting any lien against the settlement proceeds referenced herein, if any.

It is further **ORDERED** that Petitioners, N.K.C. and K.D.C., be reimbursed their out of pocket expenses as disclosed to the Court, and that Petitioners shall enter into the structured settlement annuity, with Berkshire Hathaway Life Insurance Company of Nebraska, with future payments outlined in the Receipt and Full Release with Defendant, United Health Professionals, Inc.


It is further **ORDERED** that the defendants, St. Mary's Medical Center, Inc., United Health Professionals, Inc., and Steven S. Brumfield, M.D. be and are forever acquitted and discharged from any and all liability and claims against them, arising from alleged medical negligence as noted in the Complaint filed herein.

The Court further finds the fee to S. Douglas Adkins of \$ 3500.00 for his services as Guardian Ad Litem in this matter is fair and reasonable, and it is therefore **ORDERED** that said fee be paid by the defendants.

The Clerk of this Court is directed to send copies of this Order to counsel as listed below.

All of which is, accordingly, **ORDERED**.

ENTERED this the 9th day of Dec, 2013.

A handwritten signature in black ink, appearing to read 'R. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS, CHIEF JUDGE